



Suspension and Debarment

**Department of Commerce
Presentation**



Purpose of Debarment and Suspension

- ◆ To protect the Government's business interests and not for punishment
- ◆ The key is whether or not the contractor/grantee is presently responsible to do business with the Federal Government



How does suspension differ from debarment?

◆ Suspension

- Temporary action pending completion of investigation or legal proceedings
- Based on adequate evidence (information sufficient to support the reasonable belief that an act or omission occurred)
- Immediate action necessary to protect Government
- Imposed first, then given opportunity to contest



How does suspension differ from debarment?

◆ Debarment

- Imposed for a specific period of time as final determination that person not presently responsible
- Based on a preponderance of evidence (proof by information that, compared with info opposing it, leads to the conclusion that the fact is more probably true than not)
- Imposed after giving respondent time to contest



What are the causes for debarment and suspension?

- ◆ Conviction or civil judgment for
 - Fraud/criminal offense in obtaining or performing agreement
 - Antitrust
 - Embezzlement, theft, forgery, bribery, falsification, false statements, tax evasion, receiving stolen property, false claims, obstruction of justice
 - Other offenses showing lack of integrity



What are the causes for debarment and suspension?

- ◆ Violation of the terms of an agreement so serious as to affect the integrity of the program
 - Willful failure to perform
 - History of failure to perform
 - Willful violation of statute/regulation



What are the causes for debarment and suspension?

◆ Other causes

- Knowingly doing business with an ineligible person**
- Failure to pay substantial government debt**
- Violation of voluntary exclusion agreement**
- Other cause that affects present responsibility**



What is the effect of debarment or suspension?

- ◆ **Listed as an excluded party in the System for Award Management (SAM)**
- ◆ **Cannot receive a new contract or grant**
- ◆ **Cannot be sub-recipient on a contract or grant**
- ◆ **Cannot extend an existing contract or grant**
- ◆ **Government-wide impact**



How long is debarment or suspension?

- ◆ Twelve months for suspension with possible extension for an additional six months
- ◆ Generally three years for debarment but may be more or less



Mitigating and Aggravating Factors

- ◆ Standards of conduct
- ◆ Voluntary disclosure
- ◆ Internal investigation
- ◆ Full cooperation
- ◆ Paid costs / restitution
- ◆ Agreed to implement remedial actions
- ◆ Adequate time to eliminate causes

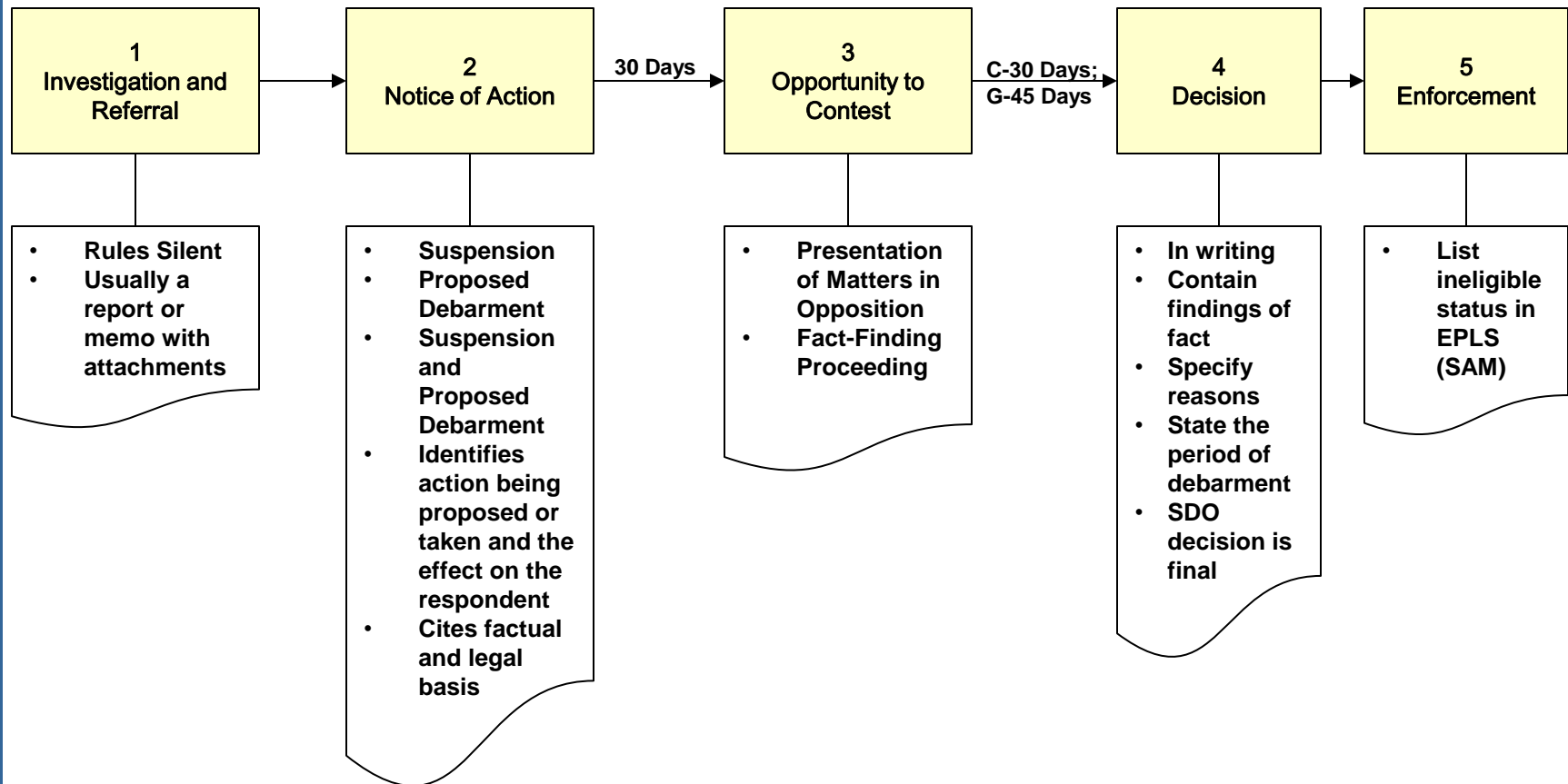


Who Handles Debarment and Suspension?

- ◆ The Senior Procurement Executive (SPE) is the Suspension and Debarment Official (SDO)
- ◆ The SPE reviews and consults with Legal, OIG, and Program Offices
- ◆ Informal procedure with adequate due process
- ◆ Contractor or grantee allowed opportunity to oppose



What does the process look like?





How do I know if someone is debarred or suspended?

- ◆ Check SAM
- ◆ Representations and certifications include whether potential contractor or grantee is:
 - Presently excluded
 - Have been convicted within the past three years of an offense
 - Are presently indicted for commission of an offense
 - Have been terminated for cause within the past three years



Things to Keep in Mind

- ◆ Be alert to common issues such as:
 - Mischarging/overcharging
 - False statements in proposals or invoices
 - Deliberate conflicts of interest
 - Trafficking in Persons
 - Kickbacks
 - Terminations for Default showing deliberate failure or a history of failure to perform
- ◆ Report fraud, waste, and abuse to Office of Inspector General (OIG) for investigation